

## HEALTH COMMISSION ORDINANCE

Ordinance # 06-150-06

### Article I. Purpose; Findings

1.01. *Purpose.* The Little River Band of Ottawa Indians has determined that it is in the best interests of its members to establish a Health Commission to promote optimal delivery of quality health services through the Health Department and the Family Services Department and to develop policies that ensure an effective coordination with Federal, State, local, and private entities to make available health services for the members of the Little River Band of Ottawa Indians.

1.02. *Findings.* The Tribal Council of the Little River Band of Ottawa Indians finds:

- a. That the Constitution of the Little River Band of Ottawa Indians delegates to the Tribal Council the responsibility to govern the conduct of members of the Little River Band and other persons within its jurisdiction; and to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members[.] *Article IV, Section 7(a).*
- b. That providing health services is an essential element of providing for the peace, and general welfare of the Members;
- c. That current contractual obligations require the establishment of a Health Commission to oversee the delivery of the following health budget areas: Health Services Management; Contract Health Services; Community Health Services; Direct Care Services; Health Planning and Development; and Behavioral Health Services – Be-Da-Bin Substance Abuse & Mental Health Services.

### Article II. Adoption; Amendment; Severability

2.01. *Adoption.* This ordinance is adopted by Resolution # 06-07120463, which supersedes the Contract Health Services Policy approved by Tribal Council on November 9, 1997.<sup>1</sup>

2.02. *Amendment.* This ordinance may be amended by the Tribal Council in accordance with the Constitution and any rules set forth governing amendment of laws of the Little River Band of Ottawa Indians.

2.03. *Severability Clause.* If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

### Article III. Definitions

3.01. *General.* For purposes of this ordinance, certain terms are defined in this Article. The word “shall” is always mandatory and not merely advisory.

3.02. *Commission* means the Health Commission as created in this ordinance, with the powers and authority vested therein pursuant to this ordinance.

3.03. *Commissioner* means a member of the Health Commission.

3.04. *Federal government* includes the Bureau of Indians Affairs, Indian Health Services, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

3.05. *Health Services* means any service provided to members by the Health Department within the framework of the Indian Health Services Contract or any other mandated agreement, as well as those services provided by the Family Services Department regarding Health Services Extended Health Assistance Program.

### Article IV. Health Commission

4.01. *Creation of Health Commission; General Authority.* There is hereby created a Health Commission for

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<sup>1</sup> The implementation date for this ordinance is set as September 30, 2006, see Resolution 06-0712-463.

the purposes described in Article I of this ordinance. The Health Commission is charged with the oversight and regulation of the Tribe's health policies within the Tribe's jurisdiction and to perform the functions required by the Tribe's contractual obligations under federal grants, contracts or other requirements, and shall exercise the powers and authorities described in this ordinance or as may be designated by separate ordinance where the Health Commission is designated responsibility.

**4.02. Membership.**

- a. The Commission shall consist of five commissioners appointed according to the Constitution and the Commissions Ordinance. At least two members of the Commission shall be elders of the Tribe.
- b. Any person 21 years of age or older may be nominated for appointment to the Commission. A commissioner may be a member or non-member of the Tribe, provided that no more than one of the five commissioners may be a non-member. Special preference will be given to persons who have had health services experience or are currently involved in a health field of occupation.
- c. No person shall be barred from appointment to the Commission because they are health services beneficiaries, and such commissioner shall be entitled to fully participate in the manner established by the by-laws.
- d. A person shall not be eligible to be appointed as a commissioner if they are employed in the Health Department or Family Services Department.

**4.03. Terms of Office.** The term of office for members of the Commission shall be limited as follows:

- a. *Commissioners.* The term of office of a commissioner shall be four years.
- b. *Officer.* The term of office for an officer shall be one year. A commissioner may be elected to successive years in the same office.

**4.04. Removal.** In addition to the reasons for removal from office as set forth in the Commissions Ordinance, a commissioner may be removed for the following additional reasons.

- a. Conviction of a felony in Tribal, State, or Federal court during a term of office, unless such conviction stems from performance of a legal duty to the Tribe;
- b. Fraud, conspiracy to commit fraud or material misrepresentation, or malfeasance in the performance of duties and responsibilities under this ordinance.

**Article V. Meetings of the Health Commission**

**5.01. Public Informational Meeting.** The Commission shall have a public informational meeting, to be held at a large, centrally located facility, at least one time per year at such a date, time, and location as may be designated by the Commission, subject to the following requirements:

- a. The agenda of the meeting shall be informational in nature.
- b. The Commission shall be required to convene a quorum at the meeting.
- c. Substantial time shall be set-aside at each such meeting to permit the membership the opportunity to provide input on any aspect or issue which is relevant to the purposes and authority of the Commission.
- d. Notice of such meeting shall be published in the Tribal newspaper no later than two weeks before the meeting, the notice to set forth the place, date, time, and duration of the meeting and the agenda for the meeting.
- e. Complete minutes of the meeting shall be taken and retained, and shall become a part of the regulatory history of the Commission.

**5.02. Regular Meetings.** Regular meetings of the Commission shall be held once each month for the purpose of conducting the business of the Commission. Regular meetings shall be subject to the following requirements:

- a. Notice of such meetings, including the date, time and location, shall be provided in the annual publication of meeting dates.
- b. Changes to the date, time, or location of any meeting shall be presented to each commissioner at

least 14 days before the date of the meeting change.

c. Meeting notice shall be deemed to be provided upon adoption of the annual publication of meeting dates. Changes to any meeting date, time, or location shall be deemed noticed by personal notice to the commissioners or may be sent by telefax or e-mail.

d. Each commissioner shall have a vote on all issues to be decided by the Commission.

e. The Commission shall take no official action unless a quorum is present. A quorum of the Commission shall consist of one officer and at least two other commissioners.

f. Complete minutes of such meetings shall be taken and the open session minutes shall be attached to a Commission monthly report to the Tribal Council. A member may obtain access to Commission minutes by making a request to the Tribal Council Recorder.

5.03. *Special Meetings.* Special meetings of the Commission shall be held as needed upon the directive of the Chairperson or any two commissioners upon receipt of 24 hours notice in writing delivered to all members of the Commission.

a. Notice shall be deemed to be provided upon being sent by telefax or e-mail.

b. All other provisions applicable to regular meetings shall apply to special meetings of the Commission.

5.04. *Conduct of Meetings.* Regular and special meetings shall be conducted pursuant to the following additional rules:

a. It shall be the standard that all meetings of the Commission shall be open to all members of the Little River Band of Ottawa Indians; however, the Chairperson or a majority of the commissioners present may direct all or a portion of a regular or special meeting to be closed to everyone except designated participants, when such closed meeting is necessary to deal with personnel issues or to discuss any matters deemed to require a closure.

b. Minutes of all regular and special meetings of the Commission shall be kept on permanent file in the offices of the Tribal Council, and shall be available for inspection by any member of the Little River Band of Ottawa Indians upon reasonable advance notice; provided, however, that as to any closed meeting or closed portion of a meeting, the minutes shall merely reflect that a closure took place.

c. Minutes of all closed meetings or closed portions of meetings of the Commission shall be transcribed and shall be kept on permanent file in the confidential files of the Commission. Such minutes may be released only upon a majority vote of the Commission explicitly authorizing such release.

d. Roberts Rules of Order shall govern the conduct of Commission meetings.

## **Article VI. Powers; Regulations**

6.01. *Primary Responsibilities.* The primary responsibilities of the Commission shall be:

a. To implement the provisions of this ordinance and all ordinances governing Tribal health services activities where the Health Commission is designated responsibility, through the development and adoption of regulations governing Tribal health services within the Tribe's area of service. Regulations shall be approved by the Tribal Council or in accordance with any ordinance promulgated regarding adoption of regulations.

b. To promulgate regulations necessary to implement federally funded contracts regarding health services, including delivery of dental, optical or pharmaceutical services, that shall be approved by the Tribal Council or in accordance with any ordinance promulgated regarding adoption of regulations.

c. To promulgate regulations necessary to implement access for all members to health services, that shall be approved by the Tribal Council or in accordance with any ordinance promulgated regarding adoption of regulations.

d. To review the program budgets and statistical service reports administered by the Health Department.

6.02. *Additional Powers.* The Commission shall have the following additional powers:

- a. To develop and complete a bi-annual survey and assessment of health services needs of the membership, and to determine and implement appropriate health services programs to meet the identified needs, subject to the approval of the Tribal Council.
- b. To issue orders and directives not inconsistent with regulations adopted by the Commission, this ordinance, or ordinances regulating the housing activities of the Tribe.
- c. To adopt, when deemed necessary by the Commission, such emergency regulations not to exceed 90 days in duration.
- d. To develop and foster cooperative and constructive working relationships with governments, organizations, and agencies which assistance will benefit the Membership.
- e. To promulgate such further regulations as the Commission may deem necessary and desirable to effectuate the powers granted by this ordinance, subject to the approval of the Tribal Council.
- f. To prepare and present to the Tribal Council a proposed budget requesting an appropriation of funds to permit the Commission to carry out the responsibilities of this ordinance and all ordinances related to health services activities where the Health Commission is designated responsibility.

6.03. *Hearing Body.* The Commission shall act as the hearing body for the activities listed below in accordance with hearing procedures adopted by the Commission.

a. The Commission shall hear:

1. all appeals of denials, suspensions, revocations, or other departmental actions involving the delivery of members' health services;
2. all cases where a Contract Health Services (CHS) payment is denied based on eligibility or if the eligible participant, or provider, fails to adhere to the policies and procedures applicable to the CHS program. The appeals procedure shall be established in the By-Laws.
3. all cases in which health services are denied;
4. all cases in which the issuance of rules or regulations is alleged to be, unconstitutional, vague, beyond the scope or authority of the Commission, or for other like reasons.

b. The Commission shall adopt all decisions in an order that clearly identifies the parties, issues, facts, rule or law and decision.

c. The Commission shall adopt all orders by majority vote and an original shall be presented to the affected party.

d. Decisions of the Commission may be appealed to the Tribal Court on an appeal review of an administrative decision and not as an original hearing.

e. The Health Department or the Family Services Department, whenever a decision of the Commission affects this department, may appeal an adverse decision of the Commission only with the approval of the Ogema.

f. The Commission shall maintain all records and filings submitted during this administrative hearing process in a safe and confidential location.

## **Article VII. Miscellaneous Responsibilities**

7.01. *Report to Tribal Council.* The Health Department shall submit a monthly report, signed by their respective director, to the Tribal Council and to the Commission showing:

- a. a summary of the health services activities for the previous month;
- b. a breakdown of services provided;
- c. the income received and the accounts payable;
- d. the number of doctor/clinic appointments for the previous month;
- e. any significant problems and accomplishments;

f. plans for the future; and

g. such other information as Tribal Council shall deem pertinent.

7.02. *Contract and Agreements Execution in Accordance with Applicable Laws.* Each contract or agreement executed or negotiated that may provide for federal financial assistance shall be executed or negotiated in compliance with all requirements of all applicable Tribal, state, and federal law and regulations.

7.03. *Restrictions on Health Projects.* The Tribe shall not develop or operate any health services project for profit utilizing federal funding.

7.04. *Public Property.* The property designated for use for Tribal health services is declared to be public property used for essential public and governmental purposes and such property shall be exempt from all taxes and special assessments of the Tribe.

7.06. *Exemption from Levy, Sale or Judicial Process.* All property, including funds received for health services activities pursuant to this ordinance, shall be exempt from levy and sale by virtue of an execution.

a. No execution or other judicial process shall be issued against the same, nor shall any judgment against the Health Department or the Family Services Department or the Commission constitute a charge or lien upon such property.

b. Provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Tribe on its fees, or revenues; or the right of the federal government to pursue any remedies conferred upon it pursuant to the provisions of this ordinance.